



STATE OF INDIANA

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Legislative Services Agency
George Angelone, Executive Director
200 W. Washington St. Suite 301,
Indianapolis, IN 46204

Re: OPAC 2020 Emergency Response Report

2020 Emergency Response Report

The Office of the Public Access Counselor, administered by Indiana Public Access Counselor Luke H. Britt, provides advice, interpretive guidance, and assistance concerning the state's public access laws (e.g., the Access to Public Records Act and the Open Door Law) to the public, state and local government officials and employees, and the media.

In accordance with Legislative Council Resolution 20-02, the office submits this emergency response report.

1. Overview of which operations or services were reduced or suspended during the pandemic including whether the suspension or reduction was required by an executive order.

The powers and duties of the Public Access Counselor (PAC) are set forth in statute. *See generally* Ind. Code § 5-14-4-10. As explained in more detail below, the COVID-19 pandemic affected the agency's operations and services.

1.1 COVID-19 reduced the PAC's training sessions across Indiana

One of the PAC's key statutory duties is administering a program to train public officials and educate the public on their respective rights and responsibilities under the state's public access laws. Ind. Code § 5-14-4-10(1).

A critical part of this education program involves the PAC traveling around the state making in-person educational presentations to various audiences and stakeholders. In a typical year, the PAC makes approximately 40-50 presentations teaching the Access to Public Records Act and the Open Door Law. It

would not be uncommon for the PAC to present to a convention audience one day and appear at municipal town hall the next.

Indeed, the COVID-19 pandemic significantly reduced the number of opportunities available for the PAC to conduct training sessions or participate in seminars around the state. The pandemic led to the widespread cancellation of large events, nonessential government meetings, and other public gatherings resulted in far fewer opportunities.

Beginning with Executive Order 20-04, limiting crowd size to 50 persons or less and with CDC guidelines tapering crowd size from thereon, the PAC only held virtual trainings until July 2, 2020 when the first in-person training resumed.

1.2 COVID-19 reduced the agency’s responsiveness to inquiries made by the public and public agencies by telephone, in person, by fax, concerning the public access laws.

Another key statutory duty of the PAC is responding “to informal inquiries made by the public and public agencies by telephone, in writing, in person, by facsimile, or by electronic mail concerning the public access laws.” Ind. Code § 5-14-4-10(5).

Executive Order 20-08’s shelter in place order limited on-site access to the PAC office. One of the primary ways the PAC and the rest of the agency staff receive and respond to inquiries made by the public and public agencies is by phone. Calls were forwarded and voicemails received follow-up calls from the PAC and other staff members. Still, the pandemic, which led to working remotely, reduced the agency’s responsiveness to phone inquiries. A 24-hour turnaround time is the internal benchmark for responses. Even still, all inquiries were resolved within 48 hours.

Although less common than phone inquiries, the PAC and the rest of the agency staff receive and respond to inquiries made in person. Whether it is a meeting in person with representatives of another state agency, a member of the public, or a member of the media, the agency was unable to do so while working remotely.

1.3 COVID-19 impacted the scope of the formal complaint procedure administered by the PAC; and thus, reduced the agency’s ability to issue advisory opinions interpreting the public access laws upon the request of a person or a public agency.

Another key statutory duty of the PAC is issuing advisory opinions interpreting the state’s public access laws. Ind. Code § 5-14-4-10(7). Advisory opinions are the result of the formal complaint procedure the PAC oversees. See. Ind. Code §§ 5-14-5-8, 9 & 10.

Executive Order 20-09 suspended the timeline found in the advisory opinion statute to allow some flexibility to the PAC. While an initial backlog manifested, it has since been pared down and the timeline has gone back to a semblance of normalcy. The PAC continues to limit the acceptance of priority requests, however.

2. Overview on preparations to address future emergencies and recovery based on the agency's experience with COVID-19

Because many of the PAC's statutory duties are time-sensitive, and events such as the pandemic tend to flood the office with complaints and inquiries, preparations would be difficult to implement. The PAC issued online guidance and virtual presentations to stakeholders (e.g. municipal, county and school board associations) and would do so again if the need arose.

Insofar as the educational services the PAC provides, virtual presentations have been successful. The learning curve was not steep and the PAC was able to participate with many agencies during the pandemic. The PAC foresees these types of presentations to become part of the norm versus in-person trainings. The Office will continue to familiarize itself with these options.

3. Recommendations, if any, for legislation that may be needed to help ensure the agency is prepared to address future emergencies.

The PAC makes no recommendations for legislation that may be needed to help ensure the agency is prepared to address future emergencies. It will monitor legislation as per usual during the legislative session and continue to provide input when asked.

4. Recommendations, if any, for legislation to permanently repeal or modify any regulations or laws that were or are partially or fully suspended due to COVID-19.

The PAC makes no recommendations for legislation to permanently repeal or modify any regulations or laws that were, or are partially or fully suspended due to COVID-19. While the PAC anticipates proposals to affect the Open Door Law and Access to Public Records Act, it will provide guidance and clarity if and when asked.

Sincerely,



Luke H. Britt
Public Access Counselor

